IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SIXTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 25310 of 2003

Between:

1 The District Collector cum Chairman, District Selection Committee for DSC 2002, Cuddapah District, Cuddapah.
2 The District Educational Officer, Convenor DSC 2002, Cuddapah District, Cuddapah.
3 The Commissioner & Director of School Education, Andhra Pradesh, Hyderabad.

..... PETITIONER(S)

AND

Irshadul Mujahidi, S/o Jaffar Hussain,
R/o 4/607-4, Aravind Nagar, Cuddapah, Cuddapah District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate Writ, Order or direction, after calling for the records relating to and connected with the judgment of the Hon'ble A.P.Administrative Tribunal dated 19-6-2003 in O.A.No.97/2003 and quash or set aside the same as contrary to law and facts and circumstances of the case

Counsel for the Petitioners: ADVOCATE GENERAL

Counsel for the Respondent: Mr. P. Sainath

The Court made the following :

HON'BLE MR. JUSTICE BILAL NAZKI

AND

HON'BLE MR. JUSTICE P.S. NARAYANA

W.P.NO. 25310 OF 2003

JUDGMENT: (Per Hon'ble Mr. Justice Bilal Nazki)

This writ petition has been filed challenging the orders of the Tribunal in O.A.No. 97 of 2003, dt. 19.6.2003.

The respondent herein filed an O.A. before the Tribunal challenging the rejection of his application as Secondary Grade Teacher (Urdu) on the ground that he was over aged. He was born on 1.7.1966. The notification stipulates that the applicant should not have exceeded 36 years of age as on 1.7.2002. The Tribunal relied on a judgment of this Court reported in *M. Khamar Pasha Vs. Commissioner and Director of School Education, Andhra Pradesh, Hyderabad and another* to come to the conclusion that as on 1.7.2002 the respondent had not exceeded 36 years of age, therefore it allowed the O.A. Now the writ petition has been filed by the State. The stipulation laid down in the advertisement notification is

that the applicants must have completed the age of 18 years and must not have completed the age of 36 years as on 1.7.2002. The learned counsel for the respondent submits that the matter has already been decided by a judgment of this Court reported in *M. Khamar Pasha Vs. Commissioner and Director of School Education, Andhra Pradesh, Hyderabad and another* (1st supra) of which reliance has been placed by the Tribunal, but we are afraid that it is not the correct interpretation of the judgment of this Court referred to above. The language in the notification in that case was that on the appointed date the candidate should not have exceeded 36 years of age, whereas in the present case stipulation is that candidate should not have completed 36 years of age. The respondent was born on 1.7.1966, he completed 36 years of age as on 30.6.2002, therefore he was clearly ineligible. Had the requirement been that he should not have exceeded the age of 36 years, then the judgment referred to above could apply.

For this reason, we allow the writ petition, set aside the order of the Tribunal. However, since the respondent was only one day lower than the required age, therefore we direct the appellants to consider his case for relaxation in accordance with rules. No costs.

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BN J.

_____

PSN J.

Dt.26.11.2004

KR

Sd/-

ASST. REGISTRAR

To

1 The District Collector cum Chairman, District Selection Committee for DSC 2002, Cuddapah District, Cuddapah.
2 The District Educational Officer, Convenor DSC 2002, Cuddapah District, Cuddapah.
3 The Commissioner & Director of School Education, Andhra Pradesh, Hyderabad.

4. 2CCs to Advocate General, High Court Buildings, Hyderabad**.**

5. 2 CD copies